

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L CARACAS 002078

SIPDIS

NSC FOR CBARTON  
HQ USSOUTHCOM ALSO FOR POLAD  
USAID DCHA/OTI FOR RPORTER

E.O. 12958: DECL: 06/18/2014  
TAGS: [PGOV](#) [KDEM](#) [VE](#)  
SUBJECT: CHAVISTA LEGISLATORS FIRE OPPOSITION SUPREME COURT  
JUSTICE

Classified By: A/POLITICAL COUNSELOR MARK WELLS FOR REASONS 1.4 (d)

-----  
SUMMARY  
-----

[¶1.](#) (U) The National Assembly (NA) removed Supreme Court (TSJ) Vice President Franklin Arriechi Gutierrez June 16. The Chavista-controlled NA used the power given them by the new TSJ law to remove judges with a simple majority vote in some

SIPDIS  
situations. Arriechi, known to oppose Chavez, will be replaced as TSJ VP by a Chavez supporter. Judge Arriechi has requested that the Constitutional Chamber suspend the action. The NA also solicited that the Moral Council (Attorney General, Controller General, Human Rights Ombudsman acting together) open investigations of Justices Alberto Martini Urdaneta and Pedro Rondon Haaz, which could lead to their indefinite suspension under the new law. End summary.

-----  
Arriechi Fired  
-----

[¶2.](#) (C) The National Assembly (NA) voted June 16 to remove Supreme Court (TSJ) Vice President Franklin Arriechi Gutierrez (Civil Chamber) from the court. The new Organic Law of the Supreme Court gives the NA power to annul the appointment of Supreme Court judges in certain circumstances with a simple majority vote. One of the specific circumstances mentioned is the presenting of false credentials to the Nominating Committee, which Arriechi apparently did when he was nominated to the court. (Note: Arriechi falsely claimed to have been a professor at the Andres Bello law school, and to have a doctorate.) Arriechi has appealed to the Constitutional Chamber to suspend the measure, as it did after a similar attempt to remove Arriechi in December 2002. (Note: The charges against Arriechi were raised by the opposition when he was named in 2000, but the pro-Chavez majority in the NA pushed him through anyway.)

[¶3.](#) (C) Arriechi is a major target of the Chavistas because he wrote the decision for the full court (Plenary Chamber) absolving the military officers involved in the April 11, 2002 events. He serves as the Vice President of the full court, leading the anti-Chavez judges. If he is removed, his position in the Civil Chamber will be taken by Tulio Alvarez Ledo, who is pro-opposition. His job as TSJ VP, however, will be filled by Omar Mora (Social Chamber), a firm Chavez ally. PolOff spoke to TSJ Judge Alberto Martini Urdaneta (Electoral Chamber) June 17. Martini reported that the rumor in the TSJ is that TSJ President Ivan Rincon will not accept Arriechi's appeal. Martini called Mora a "talon," who would likely become TSJ president after Rincon retires.

-----  
More Justices to Go?  
-----

[¶4.](#) (C) The NA also requested June 16 that the Moral Council (Attorney General, Controller General, Human Rights Ombudsman acting together) investigate Martini and Judge Pedro Rondon Haaz (Constitutional Chamber) to see if there are grounds for their removal. The Moral Council has the power under the new TSJ law to suspend TSJ judges indefinitely pending a

SIPDIS  
two-thirds vote of the NA in favor or against permanently removing them (Note: With the current alignment of forces in the NA getting a two-thirds vote is impossible, making such a suspension virtually permanent.) Martini told PolOff that the grounds for the cases are specious, but said he expects he will be removed, because of the importance the GOV gives to controlling the Electoral Chamber prior the recall referendum. He said that while the first alternate in the Electoral Chamber is pro-opposition, Martini believes his replacement will be one of the other pro-Chavez alternates. Martini said that after he, and possibly Rondon, were removed

from the court, the Constitutional Chamber would find the suspension power of the Moral Council unconstitutional. He

did not believe that he or Rondon would be able to return to the court after such a ruling, however. (Note: The Moral Council did accuse Martini and the two other Electoral Chamber justices of a "grave offense" June 18 for the Electoral Chamber's March ruling validating the assisted signatures in the referendum drive. The investigation began before the new TSJ law was passed, and Martini told PolOff that he did not expect to be suspended for this case, because it was ex-post facto.)

-----  
Control of Penal Chamber  
-----

15. (C) Martini told PolOff that opposition TSJ Judge Rafael Perez Perdomo (Penal Chamber) plans to retire soon. Perez is part of a two-to-one opposition majority in the Penal Chamber, which oversees the criminal court system. The first alternate judge in the chamber is Julio Elias Mayaudon, identified with the opposition. Martini said pro-Chavez Judge Alejandro Angulo Fontiveros (Penal Chamber) plans to go on vacation just before Perez leaves, thus forcing Mayaudon to occupy his position for one week, and leaving Perez' permanent seat to one of the other two pro-Chavez alternates, thus giving pro-Chavez judges control of the Penal Chamber.

-----  
Nomination Committees  
-----

16. (C) The NA named the nominating committee June 17 which will in turn name the twelve new TSJ judges. The committee currently consists of five pro-Chavez deputies (four from Movimiento Quinta Republica, and one from Podemos). These deputies are joined by six citizens chosen by the pro-Chavez deputies. NA President Francisco Ameliach told the press June 18, after swearing in the committee, that the new TSJ judges would be designated by August 20 at the latest. The opposition has refused to participate in the committee because it does not recognize the TSJ law, which opposition leaders have asserted is unconstitutional. Martini said Rincon had told the TSJ judges that the nominating committee structure in the TSJ law would be found unconstitutional by the Constitutional Chamber.

-----  
Future of TSJ  
-----

17. (C) Asked about the future of the TSJ law, Martini did not believe Rincon would find it unconstitutional, or prevent the nomination of the new justices. He thought a successful referendum was the only way the judicial system could be rescued from the control of the executive and legislative branches. He noted the complete control of the pro-Chavez judges over the TSJ's Judicial Committee, which controls the nominating and firing of untenured lower court judges.

-----  
Arriechi Speaks  
-----

18. (C) Arriechi spoke to PolOff at a lunch hosted by PAO June 23. Arriechi said he would resist the NA's attempt to remove him, and continue to work, though he knew the TSJ would eventually prohibit him from entering the building. He did not think there was any possibility that the pro-Chavez judges on the TSJ would break with Chavez, describing them as a collection of self declared communists, thieves, and true believers. He also said Rincon and the pro-Chavez judges on the TSJ are already treating Martini and two other judges in the Electoral Chamber as if they were suspended, despite Martini's objections on procedural grounds.

-----  
Comment  
-----

19. (C) The NA is moving quickly to seize control of the court prior to the referendum. The naming of the 12 new judges may be subject to delay in the NA, so they are using the annulment and suspension powers to quickly remove leading opposition justices and seize control of critical chambers. Rincon apparently will be selective about striking down unfavorable aspects of the law. The fact that the TSJ controls the naming and disciplining of the 80% of Venezuelan judges who do not have permanent appointments means that changes in the TSJ reverberate throughout the judicial system. The NA is sending a clear message to the TSJ and the judiciary in general: if you are not with the process, you have no future here.

SHAPIRO

NNNN

2004CARACA02078 - CONFIDENTIAL